

**ORIGINAL**

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

05 - 386

United States District Court		District	DeLAware
Name (under which you were convicted):		Docket or Case No.:	
DAVID M. WILLIAMS		9887002178	
Place of Confinement: Delaware Correctional Center 1181 Paddock Rd. Smyrna, De		Prisoner No.: #587 173211	
Petitioner (include the name under which you were convicted)		Respondent (authorized person having custody of petitioner)	
DAVID M. WILLIAMS		v. Thomas CARROLL, Warden ET AL	
The Attorney General of the State of Delaware		M. Jane Brady, E.D.	

## PETITION

JUN 13 2005

- (a) Name and location of court that entered the judgment of conviction you are challenging: Superior Court Newcastle County  
500 N. King St. Wilm. Delaware 19801

(b) Criminal docket or case number (if you know): 0897, 0898
- (a) Date of the judgment of conviction (if you know): 10-08-99-6-24-99

(b) Date of sentencing: 10-08-99
- Length of sentence: Probation
- In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☒
- Identify all crimes of which you were convicted and sentenced in this case: See Docket  
Enclosed. C/VOP, Violation of Probation,  
on Docket Sheet Dated 11-7-03.
- (a) What was your plea? (Check one)

(1) Not guilty ☐ Rule 11e (3) Nolo contendere (no contest) ☐

(2) Guilty ☒ (4) Insanity plea ☐

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? With Re-  
indictment, Charges were all included on  
plea Form. Rule 11e/C, there is no changes  
to be made in such plea. The State

Prosecutor included all charges on plea form.  
Other charges were dropped in case # 9803018189.

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☒ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

9. If you did appeal, answer the following:

(a) Name of court: Appeal wasn't filed by attorney.

(b) Docket or case number (if you know): 9803018202 - B

(c) Result: none

(d) Date of result (if you know): none

(e) Citation to the case (if you know): none

(f) Grounds raised: none

n/a

(g) Did you seek further review by a higher state court? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: n/a

(2) Docket or case number (if you know): n/a

(3) Result: n/a

n/a

(4) Date of result (if you know): n/a

(5) Citation to the case (if you know): n/a

(6) Grounds raised: n/a

n/a

n/a

n/a

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

- (2) Result: appeal Returned with notice to file additional papers, I don't have - U.S. Supreme
- (3) Date of result (if you know): N/A
- (4) Citation to the case (if you know): N/A

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Superior Court
- (2) Docket or case number (if you know): # 9807002178
- (3) Date of filing (if you know): 3-18-2003
- (4) Nature of the proceeding: Motion For Credit, For Time Served.
- (5) Grounds raised: Rule 11(e) C Plea, I was given Probation for Charges, U.S. District Court, Acknowledge my Charges in Superior Court as: Dkt# in DE Superior 980700897, 980700898. U.S. District Court Docket, Civil Case 01-CV-668 § 2254, Williams v. Snyder, ET, AL. GMS Filed 10-03-01.
- (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☒ No ☐
- (7) Result: Docket Sheet States: C/VOP Conclusion. \*
- (8) Date of result (if you know): Unknown - Docket Dated: 11-07-03

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: none
- (2) Docket or case number (if you know): none
- (3) Date of filing (if you know): none
- (4) Nature of the proceeding: none
- (5) Grounds raised: none
- N/A

N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result:

N/A

(8) Date of result (if you know):

N/A

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

N/A

(2) Docket or case number (if you know):

N/A

(3) Date of filing (if you know):

N/A

(4) Nature of the proceeding:

N/A

(5) Grounds raised:

N/A

N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☒ No ☐

(7) Result:

violation of Probation

(8) Date of result (if you know):

11-07-03

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:

Yes ☐ No ☒

(2) Second petition:

Yes ☐ No ☐

(3) Third petition:

Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

Judge was in IRAQ, just returned, only need date for V.O.P. to be heard at Superior Court, 500 N. King St., Richard Gebelien is Judge.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Unlawful Imprisonment:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

According to Public Defenders office my Case is before Judge Richard Gebelien, and I was told by receptionist at 820 n. French Street, I have a violation of Probation pending a Calendar date. Also, Case is pending Judge Gebelien's Decision, I have Decision of C/V.O.P. on Docket Enclosed

- (b) If you did not exhaust your state remedies on Ground One, explain why: V.O.P. is a Case where it only needs Scheduling to be heard by Court no Exhausting Required.

- (c) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why: Case is on Hold, Judge Richard Gebelien, Returned on - 4-29-05 From Iraq.

- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Writ Habeas Corpus

Name and location of the court where the motion or petition was filed: Superior Court, 500 n. King St. Wilmy Del. 19801



Docket or case number (if you know): 9807002178  
 Date of the court's decision: unknown  
 Result (attach a copy of the court's opinion or order, if available): Docket Sheet  
C/ VOP, Dated 11-07-03.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐ unknown

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐ Docket - Dated 11-07-2005

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: none

Docket or case number (if you know): #9807002178

Date of the court's decision: unknown

Result (attach a copy of the court's opinion or order, if available): Docket, Dated:  
11-07-2003.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: never Received Denial, or Remand,

only a copy of Docket, stating,  
C/ violation of Probation. Pending before  
Judge Richard Gebelien.

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: also

filed writ Habeas Corpus at 500 N. King  
St. Wilm, De. 19801, no results.

GROUND TWO: C/ violation of Probation/ on  
Docket Sheet Dated - 11-07-2003.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Have been told by Public Defenders office  
0-800-272-3300, that I have a violation  
of Probation, pending a calendar date since  
3-18-2003, when Filed. Docket enclosed,  
Referred to pre-Sentence, on 3-20-2003.

Pending Since 3-18-2003.

(b) If you did not exhaust your state remedies on Ground Two, explain why: you Cant Exhaust a Violation of Probation hearing that is pending. must be taken to Court for Judge to hear.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

C/V.O.P

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Writ Habeas Corpus

Name and location of the court where the motion or petition was filed:

500 n. King Street, Wilmington, DE. 19801

Docket or case number (if you know):

#9807002178

Date of the court's decision:

none

Result (attach a copy of the court's opinion or order, if available):

Docket Sheet enclosed.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

This is the appeal.

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**GROUND THREE:** \_\_\_\_\_

\_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

GROUND FOUR: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. \_\_\_\_\_

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. \_\_\_\_\_

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

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17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\* \_\_\_\_\_

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

Therefore, petitioner asks that the Court grant the following relief: pursuant to  
95-CV-334-Lon. Keith Sutherland. Docket  
Sheet Dated 11-07-03. Enclosed is copy.  
or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct  
and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on  
6-6-2005 (month, date, year).

Executed (signed) on 6-6-2005 (date).

David M. Wilham  
Signature of Petitioner

✓  
✱  
11-07-2003 Docket Enclosed

- ✓ ✱ \* (...continued)
- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.



If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN FORMA PAUPERIS DECLARATION

\_\_\_\_\_  
[Insert appropriate court]

\* \* \* \* \*

IM David M. Williams  
SBI# 173211 UNIT M4-a-23  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



U.S.M.S.  
X-RAY

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Wilmington, Delaware  
19801-3570

*Legal mail*

*Legal mail*